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ILLINOIS COMMERCE COMMISSION

STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION
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ORIGINAL

Laura Braxton

-vs-

Peoples Gas Light and Coke Company

**Complaint as to billing/charges in
Chicago, Illinois.**

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06-0023
CLERK'S OFFICE

RESPONDENT'S RESPONSIVE BRIEF

Now come the Respondent, The Peoples Gas Light and Coke Company, by and through its attorney, Mark L. Goldstein, and files this Responsive Brief to the Initial Brief filed by the Complainant, Laura Braxton ("Braxton Brief")

I. INTRODUCTION

The Braxton Initial Brief's Introduction and Relevant Facts fail to discuss the relevant issues of whether the bills issued were: 1) based on actual readings; 2) based on the appliances at Little Bit of Heaven ("Shelter"); and 3) based on a gas meter that was recording gas usage accurately.

Instead, these sections of the Braxton Brief, seek to introduce extraneous and irrelevant information regarding actual and estimated readings between 1999 and the end of 2003, clearly outside the two year time period for filing complaints pursuant to Section 9-252 of the Public Utilities Act (220 ILCS 5/9-252). Thus, at issue is whether Respondent's bills between 2004 and 2006 were proper.

The Braxton Brief Argument section makes three basic arguments which are summarized, as follows: 1) Respondent failed to read the Shelter's meter every other month contrary to the provisions of 83 Ill. Adm. Code 280.80; 2) Respondent failed to provide proof that the procedure used by Respondent to calculate estimated bills and the

word “estimate” had to appear prominently on the bills to the Shelter; and 3) the bills are difficult to understand.

The succeeding sections of this Reply Brief will respond to these three arguments.

II. ARGUMENTS

A. RESPONDENT’S ESTIMATED BILLS WERE IN ACCORDANCE WITH 83 ILL. ADM CODE 280.80

The Braxton Brief’s First Argument is a legal argument and has nothing to do with the presentation of evidence at the hearing on November 9, 2006. If Respondent had attempted to present testimony on this issue, Complainant’s counsel surely would have objected. Indeed, neither counsel for Complainant nor the Administrative Law Judge (“ALJ”) raised this issue at the evidentiary hearing. If this issue had been raised during these proceedings, Respondent would have provided a copy of the First Supplemental Order entered by the Commission on May 23, 1979 in the matter of Illinois Commerce Commission, General Order 172 Second Revised, attached hereto as Appendix A, demonstrating that Respondent fully complies with Section 280.80 (a).

B. RESPONDENT’S BILL PROCEDURE AND BILL FORMAT FOR ESTIMATED BILLS HAVE BEEN APPROVED BY THE COMMISISON.

The Braxton Brief citation to Section 280.80 was actually to 280.80 (b). As shown by Appendix B, Section 280.80 (a) allows the Respondent to estimate billing. The test of the estimated bills in this complaint is whether the “balloon” bill issued to the Complainant was proper. The evidence presented by the Respondent clearly shows that it was.

Respondent’s compliance with Section 280.80 (b) is demonstrated by copies of the applicable Respondent tariffs as set forth on Respondent Appendix B, ILL. C.C. No.

27, Second Revised Sheets Nos. 24, 25, 32 and 33. These tariff pages together with Respondent's Exhibit B, admitted in evidence, clearly show that the Respondent made reasonable attempts to read the meter in the disputed billing period and was unable to do so. As indicated by Respondent's Exhibit B, Respondent's meter readers were unable to gain entry to the Shelter to read the meter on a three occasions, June 16, 2004, February 16, 2005 and April 15, 2005.

Complainant's witness Zenetra Weatherall fully explained the "balloon" re-billing process in response to the ALJ's questioning several times during the course of her cross-examination in this docket as well as Docket 06-0603. She explained that a balloon bill is like a lump sum bill after an actual meter reading is obtained, all estimated bills are cancelled and a new bill is issued (06-0023, Tr. 154-155; 06-0603, Tr. 44-47)). The new bill takes into account the old and new actual meter readings and spreads the amount of therms used by the customer on a monthly basis over the period of the estimated readings. Ms. Weatherall noted that Respondent is allowed to go back only 24 months for the re-billing pursuant to 83 Ill. Adm. Code 280.100. (Tr. 156)

Respondent's witness Betty Jean Daniels testified that Complainant is a Rate 2 customer and its gas meter is read every other month. (06-0023, Tr. 204) She noted that if there are six consecutive estimated readings, "something should be done." (06-0023, Tr. 205) In this instant complaint, however, for the period of January 1, 2004 to January 1, 2006, there were 4 actual readings of the Shelter's meter and 8 missed readings. During this period, there were not 6 consecutive missed readings. (Respondent's Exhibit C)

Thus, as indicated above, Respondent has complied with the provisions of Section 280.80 (a) and (b). This estimated billing procedure and Respondent's bill format for estimated bills have been approved by the Commission.

C. COMPLAINANT'S DIFFICULTY IN UNDERSTANDING ITS GAS BILL IS NO BASIS FOR GRANTING THE COMPLAINT

Complainant's final argument is that the estimated bills provided to the Shelter are difficult to understand. Ms. Weatherall agreed that the bills are difficult to understand, but also noted that the Complainant could call Respondent's customer service for a bill explanation. (06-0603, Tr. 47) There is no evidence that anyone from the Shelter sought an estimated billing explanation from the Respondent.

In addition, Respondent has gone through great lengths to provide this record with a transcript that clearly shows all the details of Complainant's gas account, Respondent's Exhibit A. Respondent's Exhibit A provides all the account information required to determine that the Shelter was billed properly and accurately.

III. COMPLAINANT'S REQUESTED RELIEF

Complainant seeks to have \$13,316.00 refunded to compensate the Complainant "for all the time, confusion and expense stemming from Peoples illegal billing practices." In effect, Complainant does not want to pay for gas service provided to the Shelter. As noted in Respondent's Initial Brief, the evidence clearly shows that the Shelter was billed based upon actual meter readings and the meter tests provided showed that the Shelter's gas meter was recording usage accurately. As shown herein, Respondent's estimated billing procedure is reasonable and approved by the Commission, as is the estimated billing format. Respondent has provided records indicating the difficulty meter readers

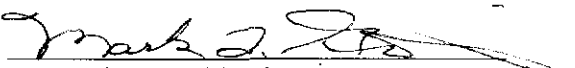
had in obtaining access to the Shelter's meter, Respondent's Exhibit B, during the disputed billing period in this complaint. Complainant has not provided any evidence.

It is absolutely incredulous that this Complainant seeks to avoid paying for any gas over almost a two year period. Complainant seeks to avert the Commission's attention from this fact, by raising a hue and cry for a general investigation of Respondent's estimating billing practice, while, at the same time, seeking a refund of all its gas charges. Complainant has failed to sustain her burden of proof that Respondent's gas bills were too high. This complaint should be dismissed with prejudice.

IV. CONCLUSION

Based on the foregoing facts and evidence, the Complaint filed by Laura Braxton against The Peoples Gas Light and Coke Company on January 10, 2006 should be dismissed with prejudice.

Respectfully submitted,
The Peoples Gas Light and Coke Company

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CERTIFICATE OF SERVICE

I certify that on April 9, 2007, I mailed the foregoing Respondent's Reply Brief, by causing a copy of same to be served by U. S. Mail, first class postage prepaid, on the parties indicated below:

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